

**MINUTES OF THE  
LAKE COUNTY PLANNING COMMISSION  
June 28, 2006**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Brotzman called the meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Messrs. Adams, Aveni, Brotzman, Klco (alt. for Troy), Simon, Smith (alt. for Sines), and Mmes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Myers.

**MINUTES**

Ms. Hausch moved and Mr. Smith seconded the motion to approve the minutes for the May 30, 2006 meeting.

Six voted "Aye."

**FINANCIAL REPORT**

Mr. Adams moved and Mr. Simon seconded the motion to approve the Financial Report for May, 2006.

Six voted "Aye."

**PUBLIC COMMENT**

There was no public comment.

**LEGAL REPORT**

Ms. Maria Rowan, Assistant Prosecutor, stated there was nothing to report.

**DIRECTOR'S REPORT**

Lake County Coastal Economic Forum

Mr. Webster announced that there was a Lake County Coastal Economic Forum held at the Kirtland Country Club this afternoon comprised of a group of business leaders in Lake County to make them aware of the plans the Coastal Committee has for the Lake Erie shoreline. They hope the forum will help in generating the private share of the match needed for the \$80 million federal grant application sent to Congressman LaTourette's office in February. "In kind" grants of property, being as they do not have to purchase them, could be used towards the match also. There was a great deal of support for a port authority or some sort of management body that would be able to carry this project beyond what this office can do to create a new economic engine for Lake County. They want the Lost Nation Airport to be preserved. People were very

supportive of our efforts. There is a little more education to be done. Recommendations were given as to what we can do for educational promotions. Some of the business people offered to help Mr. Boyd and Mr. Allen in areas where assistance will be needed.

The staff is in the process of setting up work schedules for the North Perry Village and the Madison Township Comprehensive plan updates. Madison Village said they were interested in our comprehensive plan services, but a contract has not been received by staff yet.

Mr. Webster will be going to have eye surgery in the near future and will be establishing who will cover for him while he is gone for a week or two.

#### Lake, Geauga and Ashtabula Zoning and Planning Conference

The Lake, Geauga and Ashtabula County Zoning and Planning Conference was held on June 16, 2006 at the Auburn Career Center. 83 people from three counties attended. There has been a lot of positive feedback. Topics discussed included timelines for zoning amendments, updates on new septic system rules, small community comprehensive planning, subdivision review processes, conservation development, riparian setbacks, and oil and gas drilling. This conference was focused more towards townships and their needs, whereas the OPC by the APA focuses more on municipalities. Next year, this conference will probably be held in Geauga or Ashtabula County. Ms. Hausch and Mr. Smith had attended the conference and thought it was well planned and informative with a regional format. Mr. Webster thanked Mr. Radachy for the lion's share of work he did for this program.

#### ODNR Coastal Management Request to Speak in September

Today, Mr. Webster had received a call from the ODNR Coastal Management group requesting to speak to this Commission in September. They will divide their time between us and the Lake County Soil and Water Conservation Board, which holds its meetings on the same night as the Planning Commission. They are planning to be at this Commission's meeting around 8:00 p.m. to discuss what their office does. Mr. Webster said this was the first time an agency had come to us to promote funding. The Coastal Plan Committee, through the Planning Commission, has received a grant from them and the staff has received two grants during the planning processes to develop the coastline in Lake County.

Mr. Brotzman belatedly introduced Ms. Maria Rowan as being Mr. Eric Condon's replacement tonight.

Ms. Pesec and Mr. Klco were present at this time.

#### ANNOUNCEMENTS

There were no announcements.

#### SUBDIVISION REVIEW

##### Concord Township – Resubdivision of Quail Hollow No. 5, Final Plat, 12 Lots

Mr. Radachy introduced the resubdivision of Quail Hollow No. 5. This subdivision was

recorded in 2001 with seven sublots. One of the lots has a model home on it built by Pulte Homes. They tried unsuccessfully to sell the other six lots that averaged between .47 an acre to .61 of an acre and now want to subdivide six of the seven lots into 12 sublots. The developer is Quail Developers, Inc. and the surveyor is Oxbow Engineering, Inc. The lots are zoned R-2 PUD. They are located on Quail Hollow Drive connecting into Hunt Club Drive and into the Grist Mill Shopping Center. There is sewer and water available.

The following stipulations and comments were submitted:

Proposed Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
  - a. An Erosion and Sediment Control Plan shall be incorporated into the Final Improvement Plans. *LCSWCD*
2. The existing utility easement shall be shown on the plat. *Article III Section 6(D)(1)(f)*
3. Proposed storm sewer shall be installed prior to filing of plat. *L.C. Engineer*

Proposed Comments:

1. All approvals for the improvements that are being added must be obtained from the agency having jurisdiction.
2. City of Painesville to install individual unit water line connections from water main to meter. *Painesville City Water Dept.*
3. All necessary approvals before construction begins. *Painesville City Water Dept.*
4. To be installed according to City of Painesville specifications. *Painesville City Water Dept.*
5. The Illuminating Company has no reason to recommend approval be withheld. As communicated to Ms. Egensperger of Oxbow Engineering in correspondence faxed May 30, 2006, no distribution facilities exist for furnishing electric service to proposed sublots 210A, 212B and 213A. Service facilities to supply these sublots can be installed with retrofit of distribution circuitry requiring developer activities similar to that required at initial utility installation. *First Energy/CEI*

6. The added electric demand load of the proposed dwellings may require upgrades of existing transformation and low-voltage wiring. When the developer is ready to proceed with the project, final plat and improvement plans (if any) should be forwarded to my attention at the letterhead address. *First Energy/CEI*
7. Concrete curbs and roadway along Quail Hollow Drive should be protected from heavy equipment traffic, especially excavators and bulldozers with tracks. *Concord Twp. Service Dept.*
8. Curbside mailboxes should comply with the United States Postal Regulations as well as Federal highway Administration guidelines. *Concord Twp. Service Dept.*
9. Prior to issuance of a final Certificate of Occupancy the Lake County General Health District shall have granted final approval of a conforming water and sanitary sewerage disposal system. A final Certificate of Occupancy will not be issued by the Lake County Building Department until or unless the building official inspects the building or structure and finds no violations of the provisions of the 2004 Residential Code of Ohio for One, Two and Three-Family Dwellings, or other laws that are enforced by the Lake County Building Department. **No building or structure shall be used** or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. *L.C. Building Dept.*
10. Contractors must be advised not to park on the hydrant side of the street during construction nor are they allowed to block or hinder access to any fire hydrants. *Concord Twp. Fire Dept.*
11. Buildings/structures must be identified during all phases of construction. *Concord Twp. Fire Dept.*
12. The proposed changes meet density and dwelling requirements for the overall development Quail Hollow. *Concord Twp.*
13. The Township requests a copy of the signed plat, once recorded. *Concord Twp.*
14. Driveway grades shall be a maximum of 10% and three feet from side lot lines. *L.C. Engineer*
15. Relocate yard drain at station 14+00 to proposed property line between 215 A & B. *L.C. Engineer*
16. Mass grading of sublots shall be performed as part of the improvements. *L.C. Engineer*
17. Final approval could be forthcoming when detailed construction drawings are submitted to the Lake County Department of Utilities for review. *L.C. Engineer*

18. Potable water to be furnished by the City of Painesville per their “Franchise Agreement” with the Board of Lake County Commissioners. *L.C. Utilities*
19. All sanitary tees and laterals shall be 90° perpendicular from the sanitary main to the center of each proposed subplot. All existing tees and laterals not conforming shall be cut and capped at the sanitary main. *L.C. Utilities*

Mr. Radachy continued that the stipulations stated that an existing utility easement should be shown on the final plat and the County Engineer asked for the storm sewer (yard drains) to be installed prior to the filing of the plat.

There are 19 comments that would normally have been improvement plan stipulations. There are no improvement plans. These are comments from each reviewing agency in order to let the developer and the engineer/surveyor know what will need to be done prior to being able to build houses on the site.

Staff is recommending approval with the listed stipulations and comments.

Mr. Radachy answered Mr. Smith’s question as to the reason for the lot splits by stating that Pulte Homes tried to market the lots in 2001 and was unable to sell them. Another man from Pulte Homes in Texas is going to attempt to sell the lots and felt ¼ acre lots would sell better.

Mr. Simon was concerned with stipulation #16, which stated mass grading of sublots shall be performed as part of the improvements required by the Lake County Engineer and questioned if this was because of the storm sewers they want to put in. Mr. Radachy thought this request might be because of wanting most of the earth removed to allow surveying activities to be done at the same time. The lots are wooded and they want to see everything cleared, graded and seeded down when they put in the storm sewers. Mr. Simon stated we usually try not to disturb anything and now we are requiring a mass disturbance that, according to the aerial photo, would require many trees to be removed. Mr. Radachy was not really sure why the County Engineer specified this.

Ms. Egensperger was asked if she knew, but she stated this was the first time she had seen the request. Mr. Simon said this was also the first time the Commission had ever seen this type of request. She thought that maybe the Engineer meant grading just the

front yards because of the drains so there would be a place to put the storm tees and laterals. This would have to be discussed with him.

Ms. Hausch checked to make sure the frontage requirements would be met after the split, which she was assured they would.

Mr. Brotzman was concerned about whether the Building Department allows tree trunks on a particular lot to be buried on that lot. On a quarter acre lot, would they all have to be transported off site and Ms. Egensperger thought that would be the case.

Painesville City Water's stipulations were questioned by Mr. Adams. He was told by Mr. Radachy that these were necessary because there were no improvement plans being submitted to clean up some of these issues because of adding the additional lots.

Mr. Aveni moved to approve the resubdivision of Quail Hollow #5 subdivision's final plat subject to the submitted stipulations and comments. Mr. Adams seconded the motion.

Seven voted "Aye".

Mr. Smith opposed.

Leroy Township – Eagle Creek Subdivision No. 1, Untable Final Plat and Improvement Plans (revised), 19 Lots

Mr. Aveni moved to untable the final plat and improvement plans for Eagle Creek Subdivision No. 1 and Mr. Simon seconded the motion.

Eight voted "Aye".

Eagle Creek Subdivision No. 1 was introduced as consisting of 54 acres and 19 sublots located in Leroy Township off Girdled Road. This subdivision is being developed by D'Amico Bruening Development LLC and the engineer/surveyor is Polaris Engineering and Surveying, Inc. It is zoned R-1 requiring 1.5 acre lots with 150 feet of frontage or 60 feet on the right-of-way line, 150 feet at the building setback line and the building setback line must be 50 feet off the right-of-way line. This is the first phase of a preliminary approved for 33 sublots on June 28, 2005. The design has been revised and resubmitted since it was tabled at the April 24, 2006 meeting.

The following stipulations and comments were submitted for the Improvement Plans and Final Plat:

Proposed Improvement Plan Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District.  
*Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I,*

*Sec 4, B*

3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*
4. Proof of water supply or approval of wells has not been provided. *Article III Section 4(D)(2)(a)*
5. Riparian setbacks are to encompass the 100 year flood plain. *Article III Section 3(D)(3)(d)*
6. Upon the request of Leroy Township, the temporary cul-de-sac shall have a pavement diameter of 120 feet and easement diameter of 130 feet. *Article IV Section 2(A)(9)*
  - a. The small copy of the plans dated 6/6/06 shows the temporary cul-de-sac with a 70' radius (no construction detail). The more detailed copy dated 6/6/06 shows the temporary cul-de-sac with a 50' radius (stone and asphalt construction). Leroy Township feels that a 50' radius is insufficient for some emergency and service vehicles. However, the 70' radius with stone and asphalt construction would be sufficient. *Leroy Twp. Road Dept.*
7. Temporary cul-de-sacs are to be paved. *Article IV Section 2(A)(8)*
8. ESC Plan shall be revised and submitted to the District for final review and approval. *LCSWCD*
9. Ohio EPA NPDES permit for general storm water management and erosion & sediment control shall be obtained prior to the start of construction and copied to the District. *LCSWCD*
10. Affirmed wetland delineation has been copied to the District and shown on the Improvement Plans. *LCSWCD*
11. Subject to detailed review of Improvement drawings and plat. *L.C. Engineer*
12. Prior to issuance of a final Certificate of Occupancy the Lake County General Health District shall have granted final approval of a conforming water and sanitary sewerage disposal system. A final Certificate of Occupancy will not be issued by the Lake County Building Department until or unless the building official inspects the building or structure and finds no violations of the provisions of the 2004 Residential Code of Ohio for One, Two and Three-Family Dwellings, or other laws that are enforced by the Lake County Building Department. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. *L.C. Building Dept.*

Proposed Improvement Plan Comments:

1. Once again, Leroy Township would like to request that construction traffic not use existing township roadways during construction, and that Phase II construction utilize Phase I roadways. Additionally, Leroy Township would request that the surety or maintenance bond on phase one not be released until after the completion of Phase II. *Leroy Twp. Road Dept.*
2. One additional note, Leroy Township does not have any lighting districts. *Leroy Twp. Road Dept.*
3. This subdivision has been submitted to the Lake County Board of Health and has been recommended for approval at the June 19, 2005 meeting. Please note we have reviewed 32 lots for this subdivision. *L.C. Health District*

Proposed Final Plat Stipulations:

1. Riparian setbacks are to encompass the 100 year flood plain. *Article III Section 3(D)(3)(d)*
2. Prior to issuance of a final Certificate of Occupancy the Lake County General Health District shall have granted final approval of a conforming water and sanitary sewerage disposal system. A final Certificate of Occupancy will not be issued by the Lake County Building Department until or unless the building official inspects the building or structure and finds no violations of the provisions of the 2004 Residential Code of Ohio for One, Two and Three-Family Dwellings, or other laws that are enforced by the Lake County Building Department. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. *L.C. Building Dept.*

Proposed Final Plat Comments:

1. To reiterate, the common areas are to be maintained by the homeowners association. *Leroy Twp. Road Dept.*

Mr. Radachy informed the Commission there were minor changes from the plat submitted in April. There are now two blocks instead of three and the block length is now 2,099.85 feet. Temporary cul-de-sacs that were missing have been added. East of this subdivision is Jennings Drive, which is in the Eagle Brook Subdivision done in the 1990's.

The improvement plans have 12 stipulations. The main concern is they still need to supply evidence that there is water on the site. The developer submitted a set of well logs from the adjacent properties and the site. He has agreed to do test wells on his site. The Health District has said this site has been approved. Staff has been in contact with other planning commissions to try to find out how many sample wells should be drilled to use as a comparison



to those drawn on the site.

Mr. Simon asked who was requiring the wells be drilled and was told the Planning Commission staff. As part of the Regulations, we have to provide evidence that there is proper water on the site and he cited Article III, Section 2(D)(2a): "*Proof of water supply or approval of wells.*" As far as Mr. Radachy knew, the Health Department had given approval on septic. Mr. Simon then asked how the Planning Commission would determine the number of wells and test holes needed to be drilled. Mr. Radachy said he had asked how other counties handled this same situation at a planning conference and they responded they usually do about 25% of the lots. We had asked the Lake County Health Department and they were noncommittal on this issue so we went to other communities for this information. Mr. Webster stated the staff has had ongoing conversations on septic systems and wells with Ms. Laura Kramer-Kuns from the Lake County Health Department prior to her going on vacation for the last two weeks.

The Commission did not need to have wells drilled on the Jennings piece next to this subdivision when it came up for review because there were a couple wells already done and they also used some adjacent well logs that were drilled more recently than the ones that we happened to have at the time. The wells are site specific. Mr. Simon stated, from what he had heard, Leroy has a tendency for low-yield wells that require a storage system that pumps on a regular basis until the tanks are full for whatever storage consumption is needed for the structure involved.

Mr. Brotzman inquired about whether well drilling and well logs being done on the property would need to be done in order to get a permit or after getting a permit and before occupancy. Mr. Radachy stated the Health Department needs to approve the location of the well and has to mark it low yield or not on the submitted plans. The well has to be in and producing in order to have a gallon per minute assessed to it per Mr. Simon. Mr. Webster stated it was to be done before you started building. Mr. Simon stated anything less than five gallons per minute would require a holding system and also stated this may have changed because it had been a while since he had done a well and septic system.

Mr. Radachy stated that Mr. Szcus of Polaris Engineering and Survey had just given him an email that specifies Leroy is typically known as being less than five gallons per minute and people are required to consider storage if they have less than five gallons per minute. It is called out as illegal policy and they have to put in storage or sign off acknowledgement of the potential of running out of water.

The developer is showing a 100-foot temporary cul-de-sac and the Township is asking for a 120-foot pavement diameter to allow emergency equipment to turn around.

Mr. Radachy also stated that a riparian setback is shown on the final plat, and on the improvement plans, they show that each stream is a defined 100-year flood plain. According to the Regulations, the stream setback needs to be to the edge of the 100-year flood plain if it is 125 feet. It also needs to be marked on the final plat and the improvement plans.

Staff is recommending approval subject to the proposed stipulations, along with all the submitting agencies.

Another topic of concern brought up by Mr. Brotzman is on page S-8, which refers to stipulation number 13 of the preliminary Improvement Plans approval letter of April 26, 2006, concerning "affirmed wetland delineation" being copied with the response that one has been approved. Last month we spoke about the problem of getting an affirmed delineation, and here they asked for it and it was provided in a fairly short time. Mr. Radachy stated he believed that was because of the timing. This is the time that the Corps does affirmed delineations. Earlier we were talking about having an affirmed delineation prior to a preliminary plan being completed and, in this case, the preliminary plan had already been completed.

Mr. Brotzman continued by questioning the developer's response on page S-9, to proposed final plat stipulation number four regarding grading having been revised so that drainage/ditches off the site would not be required. He thought this might mean that all the water would be collected and stored internally. In April, when we saw this plan, at the edge of the cul-de-sac there was a stream running through and they were talking about taking the water out of the cul-de-sac and into the stream. Originally, we were requiring they get easements for maintenance purposes to that stream. Mr. Radachy stated they decided to put a level spreader on subplot 15 to disburse the water slowly and easements are not necessary.

As the water is being collected outside of the road right-of-way, maintenance should be specified. It was decided that this should be added as a final plat stipulation:

*"3.) An easement for maintenance shall be provided for the level spreader."*

Mr. Larry Klco suggested the future homebuyers in this subdivision be notified by the developers that there is a sand quarry within 1,000 feet of this property. Mr. Radachy and Mr. Webster determined this could be put in as a comment. The final plat comment would read:

*"2.) Please give notice to the new homeowners of the active quarry located adjacent to the property."*

Mr. Adams moved to approve the Eagle Creek Subdivision in Leroy Township with the stipulations and comments submitted plus final plat stipulation #3 and final plat comment #2 stated above. Mr. Smith seconded the motion.

Seven voted "Aye".

Mr. Aveni abstained.

## LAND USE AND ZONING REVIEW

### Concord Township – Proposed District Amendments from R-1, Residential District, to R-6, Residential District, PPN# 8A-21-A-8 through 21-A-17 and 8A-21A-21

Mr. Radachy described this first case as a proposed district change from R-1 to R-6 in Mt. Royal Subdivision, Phase 3, off Hermitage Road and north of Girdled Road to rezone 11 sublots on Buckingham Place at the end of the property. The applicant is the Mount Royal Home Association and it is supported by the 11 lot owners. One lot has split zoning and one owner is not involved in the district change. They now have sanitary sewer available, which would allow for .505 acre minimum lot size. R-6 has a two-acre minimum. The Homeowners

Association provided documentation of 11 of the landowners saying they wanted the zoning changed to retain the two-acre minimum. The twelfth is not involved in this district change.

Land Use and Zoning recommended the district change be made and suggested the Zoning Commission try to get the last parcel rezoned because this would leave an island of R-1 in the middle of R-8, R-6 and RD-2.

Mr. Bryan Flanigan, President of the Mt. Royal Community Association, began by passing out some information on the sublots involved in the request to rezone. He stated about 97% of the land owners in Mt. Royal were in R-6 zoning. They were in the process of changing their homeowner association text when they found that the lots to the east towards the end of the cul-de-sac were zoned R-1. All the people that bought two-acre lots thought, when they brought in the sanitary sewers, they would all still be two-acre lots. The old text allowed them to split the lot to one acre if you had sanitary sewers. All 17 of the people on Buckingham Place have sanitary sewers and are in favor of keeping the lots as two acres. There are three lots that share a driveway. These people have signed agreements not to split their lots. Mr. Bob Anderson, owner of the one dissenting lot, has not supported this because he is trying to put a gas well in next to his business. He was not against the rezoning, he just did not want to change his zoning until he knew what was going to happen to the gas well. They felt this property's egress and driveway widths would prevent possible lot splits and went forward without this parcel. One of the lots was actually R-1 on half and R-6 on the other half.

He continued stating that all 11 lot owners have two-acre lots and are in homes that conform to the R-6 zoning. He concluded that they were requesting the R-6 zoning be continued to the end of the street.

Mr. Simon questioned if the shared driveway access by the three homeowners had an actual easement. Mr. Radachy showed how subplot #57 was created in a lot split action in exchange for a subplot easement to Mr. Anderson's piece of property.

Ms. Pesec moved to recommend approval of the R-1 district change in Concord Township to R-6 and Ms. Hausch seconded the motion.

The Board continued to discuss this motion. It was noted that the Association had put in an over-capacity sewer system because the entire basic quadrant was to be included for 500 people as required by the Utilities Department. They had wanted sanitary sewers because they had septic systems that were failing in some cases. The new homes going in on Buckingham Place had paid for the initial easement crossing and the Association had taken advantage of this situation to make it available to the rest of the subdivision. Mr. Webster said these soils consisted of very tight clays and a poor system was used here. The mound system has only come into effect in the last couple years. Homes in the area are limited right now as to how many baths and how large the house could be based on the approval of a septic system. The sanitary sewer offers a long term solution, opens the yards up so they do not have to maintain evaporation and allows people to build homes with more bedrooms and bathrooms.

Ms. Pesec restated the motion to recommend the approval of the Land Use and Zoning

Committee's recommendation of the proposed district changes from R-1 to R-6 and Ms. Hausch restated that she seconded the motion.

Seven voted "Aye".  
Mr. Aveni abstained.

Concord Township – Proposed District Amendments from R-2, Planned Unit Development to B-S, Business Interchange, PPN #8A-13-1

Mr. Radachy introduced this district amendment application as being made by Mr. Roy Greig of 44 Partnership to rezone 3.4 acres of land located off Girdled Road and behind properties on Crile Road from R-2, Planned Unit Development to the B-X, Business Interchange District. This is all B & O Railroad property that was purchased from Quail Development in the early 1980s and zoned industrial in 1986. There are two slivers that are not part of the application as of right now. Originally in 1986, there was supposed to be multi-family zoning in this area with a golf hole on the golf course. This plan has since changed. This access is no longer needed and can be eliminated. This building is very close to the property line now so it does not require a 50-foot buffer against residential properties as per Concord's zoning. If this property is rezoned, half of it will become buffer to the R-1 zoning on Girdled Road. The two slivers owned by 84 Lumber should be rezoned also or they should not be rezoned because it would create two little slivers of R-2 surrounded by B-X.

Land Use and Zoning recommends the property be rezoned only if the two pieces owned by 84 Lumber are included.

Mr. Simon asked if this would be moving towards what the corridor study indicates for that area and Mr. Webster said it would be moving that way and would, in fact, clear up some infractions because the buildings in 84 Lumber are not in accordance with zoning. This situation occurred when the buildings were built when the railroad was there. When the railroad closed, the property was split between 84 Lumber and Quail Hollow. Mr. Simon was also concerned about the property having had anti-defoliant agents sprayed along that railroad track and wanted to make sure the gravel, etc. had been removed and that no bike paths or residential uses would be on the property close to the track. He was assured by Mr. Webster that as commercial zoning the buffering requirement of 50 feet would take up most of that land.

Mr. Simon moved to recommend approval along with the Land Use and Zoning Committee's recommendation and Mr. Adams seconded the motion.

Mr. Klco was concerned about what would happen if 84 Lumber did not go along with this recommendation. He was told that the land would stay as R-2 and not be rezoned. He wondered why the Township had not already approached 84 Lumber and was told that they thought those slivers of land were already zoned B-X.

Mr. Webster stated that bringing this issue up and putting it in our recommendation, it opens the door for the Township to do something with it at this point rather than going back and starting the change again from the beginning.

Seven voted “Aye”.

Concord Township – Proposed Text Change to Sections 16.24B, 16.25B and 16.25D

Mr. Radachy described the Concord Township proposed text changes to RCD Sections 16.24B, 16.25B and 16.25D. The changes will give some minimum standards for home placement in an RCD. Currently, they have a 30-foot setback in the text and will be adding a 10-foot sideline clearance and a 30-foot rearline clearance to give some definition to the sublots. RCD lots will have a minimum lot size according to its district; .25 acres for proposed RCDs currently located in the R-1 District and .50 acres if located in the R-4 District. The lot size will dictate the frontage and the smaller the frontage, the narrower the building envelope will be.

In Section 16.24B, Open Space and Density Bonus, to encourage the use of the RCD district option and the development of larger areas of open space, a density bonus on a sliding scale has been established. The maximum allowable increase in the base density is 11% with 40+ acres of open space.

Ms. Pesec questioned if this was a change from their current density bonus. Mr. Radachy replied that, at the last Trustee meeting of 2005, the amendment that had gone through the Planning Commission had been revised by two Trustees against their Zoning Commission’s recommendation and removed the calculation for density bonus. Since December, there has not been a RCD density bonus.

Mr. Simon was concerned about any delineation being made on the rear yards if any of that property could be or was to be used in an easement. An accessory building has to be 10 feet from an easement. A 10-foot side yard is mandatory to allow for drainage.

Mr. Simon felt all they had done with the density bonus was shrink the subdivision down to a smaller piece on it. He stated he was not even sure if there was a market for conservation. He had a piece in Perry Township that had an envelope around it that has taken an eternity to sell. He felt that when looking at a conservation subdivision, you were looking at some sort of property around the outside either from a drainage standpoint or treescaping, etc. to keep the area so it drains properly.

There was discussion concerning the market for conservation subdivisions, the citizens of Concord Township understanding conservation development, programs saying this should be an overlay-type zoning so each subdivision did not require a separate rezoning, and it was decided the problem of not having minimum lot areas or setbacks in Concord was of concern here.

More discussion ensued concerning if the 30-foot rear yard minimum could be in a conservation easement. An easement could go right up to the house if whoever owns the easement granted access to it. A parcel being sold would still have to have a minimum of 30 feet between any structures on the lots. St. John’s Bluff was brought up as an example. On the Andrews School side of the development, there is a 50-foot conservation buffer. All the property lines go out to the common property line, but if you buy a lot, there is 50 feet of it that is deed restricted so you cannot build there, but you could still calculate the setback for a house with it.

If you had the owner of the easement's signature, you could build a deck or anything else as long as you did not go within 30 feet of the property line. Requirements of decks versus patios and their effect on the open space were also discussed. The building envelope is not part of the open space. The 30-foot rear yard minimum cannot be part of the open space requirement. The language of an easement controls what you can do inside that easement. Another item mentioned was front yard setbacks going from an existing subdivision into a conservation subdivision may look too close to the street. One option would be to have setbacks on the exterior of the subdivision, match them to those adjacent to them, and step them down as you come to protect the value of the houses in the adjoining subdivision.

Mr. Webster was concerned as to whether the Township had addressed accessory buildings.

Mr. Brotzman clarified that we were suggesting to the Township to address accessory structure setbacks, take a step to address side-yard clearances, and the language for easements if conservation easements are put on the property of the individual lots and how it is worded.

The Land Use and Zoning Committee took these two pieces as one. The Commission decided to vote on them separately.

Mr. Simon moved to go along with the recommendations on the side, front and rear yard clearances with the comments to be made regarding accessory use-structures and rear yard setbacks as well as giving some thought to stepping the front yard and side yard clearances to make it look more graduated into an existing subdivision so it would be less noticeable. Mr. Klco seconded the motion.

All voted "Aye".

Ms. Pesec quoted 16.24C(2), Any area designated as open space shall be preserved in its natural state..." and continued that, in Summerwood, some areas were counted as open space and then had trees cleared for sewers, changing its natural state significantly. She did not see protection of the open space in the text that she normally saw in these kinds of texts. At this point, it was mentioned that they could have "restored" it afterwards and she countered that big trees could not be placed on the sewers.

Mr. Simon justified this occurrence by stating that the Utilities Department rarely gives the developer any indication of where everything is laid out and, in all honesty, they are not privy to that information as to where the layout is concerned. How often would they ever know if the sewer is modified and put into an open space if that is the case? The Utilities Department does whatever they want.

There were many things discussed on the issue of the open space and density bonus:

- A utility easement did not change the use of the land. It was still considered open space and to be part of the calculation.
- Open space is not being preserved in its natural state with a utility easement. Ms. Pesec felt it then should not be considered open space.

- It was felt that, at the preliminary stages, open space is mapped out for all and restoration should take place if disturbed. This text does not state this.
- Should someone be penalized for something they have no control over?
- Developers have been told that sewers were available, but have to wait until Mr. Saari decides where they are going to be in the development.
- When laying the sanitary sewer in Summerwood, Utilities hit a high point and had to go through an open space in order to get it so it would work properly.
- Mass grading was requested by the County Engineer. This may have more of an impact on open space.
- There should be guidelines concerning reforesting areas or putting the open space back into a vegetative state of some sort if the open space is disturbed.
- Use “a” natural state instead of “its” natural state.
- Should they give the Township a comment about the restoration of open space?
- Should there be a comment that homeowners associations’ language should be reviewed carefully by the Township?

Mr. Klco moved to recommend to approve the text changes for Section 16.24C(2), Open Space and Density Bonus, and recommend to the Township to add language to 16.24C(2) stating, if open space must be disturbed for any reason, an open space restoration should be done at the end of the project.

Mr. Brotzman called a point of order to vote on the motion and asked for a second.

Mr. Simon seconded the motion.

Ms. Pesec suggested to also add a comment to have homeowners association language carefully reviewed by the Trustees.

Mr. Klco withdrew his motion. Mr. Simon withdrew his second of the motion.

Ms. Pesec moved to recommend approval of the text changes for Section 16.24C(2), Open Space and Density Bonus, and recommend to the Township to add language to 16.24C(2) stating, if open space that is meant to be preserved is altered for other considerations, open space restoration should be made; add a modification to Section 16.15 stating that a change in the character of the open space is a substantial change that must be reviewed by the Trustees; and to recommend that language be added to allow Township’s counsel to review the homeowners association deed restrictions looking specifically at protecting and conserving open space to verify that the declarations properly preserve open space as required by the zoning text. Mr. Smith seconded the motion.

All voted “Aye”.

Mr. Aveni left at this time.

#### Perry Township – Proposed Text Amendments to Sections 301 R, 310 B, and 315I-1

Mr. Radachy informed the Commission that Perry Township is looking to increase its

setback on Lane Road because Vrooman Road may possibly be coming into River Road and down Lane Road. They are looking to extend the setbacks to 115 feet from the centerline, which is approximately 85 feet from the current right-of-way line now as this will be a major connection between Rt. 20 and I-90.

The Land Use and Zoning Committee recommended the zoning change be made and that they should review the setbacks on Rt.20 and also on regular subdivisions which could currently result in variations in different areas. As an example, Concord currently uses 50 feet from the right-of-way and 80 feet from the centerline.

Mr. Simon wanted to take a planning step further on this. If this is going to be an interconnecting road between I-90 and Rt. 20, gradually the residential zoning is going to be minimized along that whole strip whatever the setback is. He suggested giving this some thought right now to a marginal roads and a corridor study as was done in the Auburn-Crile Rd. Business Corridor Study for Concord. There are vast farm pieces and nurseries that could be modified one step further. If this takes place, they are going to need a marginal road parallel to this to allow a minimum of connections to Lane Road. This would also be a good time to give some consideration to access management. Because this is being considered as an evacuation area, there should be some thought given to this.

Mr. Webster agreed that a corridor plan is needed and stated access management would still be needed. The State passed a law that allows the townships to do access management. The County Engineer is not ready to do anything at this point. The State has sole control of access management on all state and federal highways.

Discussion centered on the possibility of Lane Road becoming a future state road because of being part of an evacuation program or remaining a collector road as it is now; it would take an act of legislature to create new state highways; the possibility of moving S. R. 86 and redesignate it and dedesignate another area; NOACA not having standards to address this situation; monies available from other entities; status of a secondary aid highway with the State providing aid to it because it is adding to the access of a major state highway; increasing setbacks versus a marginal road with fewer entry roads; consideration of expansion; and future widening of Lane Road were all discussed.

Mr. Simon moved to recommend approval of the requested setbacks as submitted and to strongly recommend that Perry Township consider doing an all-encompassing corridor study in this area. Ms. Pesec seconded this motion.

All voted "Aye".

#### REPORTS OF SPECIAL COMMITTEES

There were no reports of special committees.

#### CORRESPONDENCE

On November 2, 2006, the Ohio Department of Agriculture, in cooperation with the American Farmland Trust, the Ohio State University's C. William Swank Program in Rural-



Urban Policy and Center for Farmland Policy Innovation, will host the seventh annual Ohio Farmland Preservation Summit at 8995 East Main Street in Reynoldsburg to talk about agriculture. Mr. Webster will give more information on this conference as he receives it.

#### OLD BUSINESS

There was no old business.

#### NEW BUSINESS

There was no new business.

#### PUBLIC COMMENT

There was no public comment.

An inquiry as to Mr. Schaedlich's health was made and Mr. Radachy said he had heard from someone from Concord Township that he was doing very well and was expected to be out of the hospital a week ago after his second operation. Mr. Webster added that he will be quarantined at his home for a while.

#### ADJOURNMENT

Mr. Simon moved and Mr. Smith seconded the motion to adjourn the meeting at 9:37 p.m.

All voted "Aye."

The meeting adjourned at 9:37 p.m.

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Timothy C. Brotzman, Chairman

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Darrell C. Webster, Director/Secretary